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\*Admitted only in Maryland  
\*Admitted only in Virginia  
\*Admitted only in Texas  
\*Practice Limited to  
Federal Agencies

September 3, 2002

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Commissioner for Patents  
Washington, D.C. 20231

Attn: Ms. Leta Adams  
Art Unit 1636

Box RCE  
**RECEIVED**

SEP 06 2002

TECH CENTER 1600/2900

Re: U.S. Utility Patent Application  
Appl. No. 09/438,358; Filed: November 12, 1999  
For: **Compositions and Methods for Recombinational Cloning of  
Nucleic Acid Molecules**  
Inventors: Gerard *et al.*  
Our Ref: 0942.4640001/RWE/BJD

Sir:

Further to the Notice of Improper Request for Continued Examination mailed August 7, 2002, transmitted herewith for appropriate action are the following documents:

1. Copy of the Notice of Improper Request for Continued Examination;
2. Request for Continued Examination (RCE) Transmittal;
3. PTO Fee Transmittal Form (PTO/SB/17);
4. Petition For Extension of Time Under 37 C.F.R. § 1.136(a)(1);
5. Amendment and Reply Under 37 C.F.R. § 1.111;
6. Fourth Supplemental Information Disclosure Statement;

7. Two pages of Form PTO-1449 citing eight documents;
8. A copy of each of the eight cited documents (AI4, AJ4, AO5, AS67, AT67, AR68, AS68, AT68); and
9. One (1) return postcard.

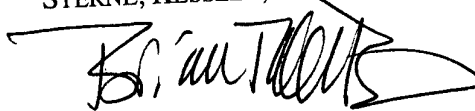
As will be readily apparent from the record, the appropriate fees for filing a Request for Continued Examination (\$740.00) and a request for a two month extension of time (\$400.00) submitted on August 1, 2002 were paid by deposit account on that date. Therefore, the remaining fees which are due, totaling \$2,168.00 (\$1648.00 in additional claims fees and \$520.00 in extension of time fees for the difference between a two and three month extension of time) have been authorized to our Deposit Account No. 19-0036.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Brian J. Del Buono  
Attorney for Applicants  
Registration No. 42,473

BJD/nef  
Enclosures

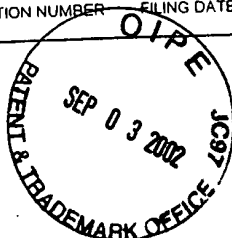
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SKGF Rev. 2/15/02 dcw



APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE



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**COPY** SEP 06 2002

TECH CENTER 1600/290

DATE MAILED:

**NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 8/1/02 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

**Note:** If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

**A copy of this notice MUST be returned with any reply.**

Direct the reply and any questions about this notice to:

Lita Adams Examining Group 1636

(703) 305-3291  
FORM PTO-2051 (Rev. 3/2001)